

PLANNED UNIT DEVELOPMENT AGREEMENT

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This Planned Unit Development Agreement (the "Agreement") is executed this ____ day of _____, 200__ between GEORGETOWN CHARTER TOWNSHIP, a Michigan charter township, with its offices located at 1515 Baldwin, Jenison, Michigan 49428 (the "Township"), and [DEVELOPER], of _____ (the "Developer").

RECITALS

A. The Developer owns approximately ____ acres of real property located at _____ in Georgetown Charter Township, Ottawa County, Michigan (the "Property"), more specifically described on the attached Exhibit A.

B. The Developer applied to the Township for zoning approval to develop the Property as a Planned Unit Development ("PUD"). To accomplish this, the Developer sought approval from the Township to rezone the Property to a PUD designation. A copy of the approved PUD plan, as required by the Township's Zoning Ordinance, depicting the scope of the development (the "Project"), dated _____, 200__ and on file with the Township, is attached hereto as Exhibit B.

C. In approving the Developer's request to rezone the Property to the PUD zoning designation and the approval of the PUD site plan, the Township Planning Commission and Township Board adopted certain conditions of approval, which were relied upon by the Planning Commission and Township Board in granting their approval. The conditions, if any, adopted by the Planning Commission and Township Board, are attached as Exhibit C. Additional conditions of approval may also be included within the minutes of relevant meetings of the Planning Commission and/or Township Board. Furthermore, any representations or promises made by the Developer during the zoning review and approval process for the Development (whether oral or in writing) shall also be additional conditions of approval if deemed appropriate by the Township.

D. The Developer shall develop the Property only as specified in the approved final PUD site plan consistent with all conditions and requirements (hereinafter, the development of the Property shall be referred to as the "Project").

E. In reliance on their mutual promises and in order to memorialize their understanding, the parties have determined to enter into this Agreement.

AGREEMENT

For good and valuable consideration, including the covenants, agreements, and pledges contained herein, the parties agree as follows:

1. **Compliance with all Laws, Ordinances, Approvals, and Permits.** The Developer agrees to construct, install, and operate the Project in accordance with approvals received from the Township and all governmental entities with applicable jurisdiction. In constructing and operating the Project, the Developer agrees to comply with all state and local laws, ordinances, and regulations as well as the terms of this Agreement and the Township's Zoning Ordinance.

2. **Compliance with all Township Approvals.** The Developer will design, develop, construct, and operate the Project in accordance with any and all approvals and conditions of approval received from the Township and/or its various bodies, officers, departments, and commissions including, without limitation, any approved supplementary final phase plans approved pursuant to the Township's Zoning Ordinance as well as the terms and conditions of this Agreement. The parties agree that no variances from the Zoning Board of Appeals may be sought for any approved PUD plan or conditions imposed in the approval granted by the Township.

(a) **Final Plan Sequencing.** Prior to the issuance of foundation or building permits for any phase of the Project (and prior to any construction of any improvement, building, or structure commencing on the Property), the Developer shall submit for the review and approval of the Township Planning Commission a final PUD site plan for the relevant phase. In its review of each proposed final PUD plan, the Planning Commission shall conduct and rely on the standards for review contained in the Township's Zoning Ordinance.

(b) **Amendments to Final Plans.** Changes to a final PUD site plan shall be applied for by the Developer to the Township in accordance with the Township's Zoning Ordinance.

3. **Subdivision Development.** If the project is to be subdivided (*i.e.*, platted), it shall be in accordance with and as shown on Exhibit B, the approved site plan. This Agreement is not any type of plat approval and the Developer remains responsible for complying with all provisions of the Michigan Land Division Act, as amended, and any associated Township ordinances with respect to plat reviews and approvals.

4. **Common Areas and Maintenance.** If the Project includes any community open space, such open spaces shall be as shown on Exhibit B (the "Park Areas"). The Park Areas shall be irrevocably dedicated and retained as open space for park, recreation or other common uses. To ensure the long-term ownership, maintenance and control of the Park Areas, and prior to the issuance of any foundation or building permits for any phase of the Project, the Developer shall establish an association, pursuant to Michigan law, comprised of the owners of lots or parcels within the Project (collectively, the "Association"). The Association documentation shall be subject to the prior reasonable

review and approval of the Township to ensure adequate provisions for the on-going care and maintenance of the Park Areas. The documentation, whether contained in a deed restriction or otherwise, shall provide for the permanent maintenance of Park Areas and site amenities by the Association, indemnification of the Township and its officers and employees, minimum insurance requirements for the Association, adequate mechanisms to force financial participation by members of the Association and restrictions on the ability to amend these requirements without the Townships prior approval. Without limiting the foregoing, the Township's review shall be based on the standards contained in the Zoning Ordinance. _____ percent permanent open space shall be provided for this Project which is a total of ____ acres of open space.

5. **Streets and Right-of-Way.** Exhibit B shows the proposed public and/or private street right of ways and streets for the Project. The Developer shall construct all public and/or private streets within the Project. Upon the completion of the construction of public any right-of-way as shown in Exhibit B, and inspection and approval of the same by the Ottawa County Road Commission, such rights-of-way shall be conveyed to the Road Commission through proper conveyance document and recordation. The Developer shall execute any and all documents reasonably requested by the Township or the Road Commission to effectuate the provisions of this subsection.

6. **Phases.** Anticipated construction phasing (if any) is identified on Exhibit B, the site development plan.

7. **Road Improvements/Curb Cuts.** The parties agree that development of the Project will have an impact on vehicular traffic patterns along public and/or private street right-of-ways. To mitigate the adverse consequences of the Project on public infrastructure and for the benefit of lot owners of the Project, the Developer agrees to construct the Project as shown in Exhibit B.

8. **Stormwater.** The Developer shall apply for and obtain the approval of the Ottawa County Drain Commission, Michigan Department of Environmental Quality, and any other required entity relative to the construction of the stormwater ponds and drainage system.

9. **Public Utilities.** Public electricity, telephone, gas, water and sanitary sewer service ("Public Utilities") shall be provided by the Developer to all lots in the Project. Public Utilities shall be installed and maintained underground as required by the Township. Prior to the issuing of any foundation or building permits for the Project, the Developer shall provide all public easements reasonably necessary, in such locations approved in advance by the relevant utility service provider and the Township. All reasonably necessary easements for water and sanitary sewer service shall be granted to Ottawa County. Thereafter, and before issuing any building permits for any phase of the Project, final construction drawings for that phase of the Project shall be submitted for the review and approval of the Township Engineer and the Township.

10. **Landscaping.** Landscaping shall be incorporated and installed by the Developer on the Property in accordance with a landscaping plan as provided for in Exhibit B.

(a) All landscaping as identified on the landscape plan shall be installed by the Developer with each corresponding phase prior to issuance of building permits for that phase, or adequate financial surety as approved by the Township shall be provided to the Township for those landscaping items not installed. Installation of the landscaping shall constitute a condition of approval of each phase final plan and shall be deemed an integral part of this Agreement.

(b) The Association is responsible for maintaining all Park Areas within the Development as shown on Exhibit B, which maintenance shall include, but is not limited to: mowing all turf areas, trimming trees and shrubs, watering all landscaped areas, and promptly removing and replanting all diseased or dead plants in such areas, as well as appropriate maintenance of all park amenities.

(c) Park Amenities such as black top walks, nature trails, gazebos and playground equipment shall be installed by the Developer with the corresponding phase of the development.

(d) The Association shall maintain all walkways, non-motorized paths, nature trails, and sidewalks constructed on the Property except for sidewalks located adjacent to individual lots, which shall be maintained by the lot owner in reasonable condition and repair at all times.

11. **Sidewalks and Nonmotorized Paths.**

(a) Sidewalks and/or nonmotorized paths (in accordance with Township ordinances) shall be provided on both sides of all new public and private streets in addition to all such items shown on Exhibit B.

(b) The Developer shall install all sidewalks and/or non-motorized paths within the street adjacent to park area road frontage.

(c) Sidewalks shall be installed adjacent to individual lots by the lot owner at the time of home construction per Township ordinance if this is a residential PUD.

12. **Architecture.** Architectural standards shall be in accordance with the approved PUD.

13. **Amendments to the PUD Plan.** The Preliminary and Final PUD site plan may be amended in the future consistent with the Township's Zoning Ordinance and other applicable ordinances. Any individual person or entity seeking to develop a particular phase may apply for an amendment without the consent of all owners in the PUD.

14. **Monetary Security.** The Developer shall file any monetary security (in a form, amount, and language as approved by the Township) with the Township as required by the Township's Zoning Ordinance or pursuant to the PUD approval.

15. **Violation of this Agreement.** The parties acknowledge that monetary damages for a breach of this Agreement would be inadequate to compensate the parties for the benefit of their bargain. Accordingly, the parties expressly agree that in the event of a violation of this Agreement, the non-breaching party shall be entitled to receive specific performance. Nothing herein shall be deemed a waiver of the Township's rights to seek enforcement of this Agreement or zoning approvals previously granted, to the extent otherwise authorized by law. Notwithstanding the foregoing, in the event there is a violation(s) or alleged violation(s) of the terms or conditions of this Agreement by the Developer, then the Township shall serve written notice upon the Developer setting forth the manner in which Developer has violated the Agreement, and such notice shall include a demand that the violation(s) be cured within a stated reasonable time period. Violation of this Agreement by the Developer shall be deemed a nuisance *per se*. Should a court of competent jurisdiction find the Developer to be in breach of any provision of this Agreement or the PUD approval (in whole or in part), then the Developer shall be required to reimburse the Township for its reasonable attorney fees and costs. Additionally, the Township shall have the right to utilize stop work orders as appropriate for any violations. All of the remedies of the Township under this Agreement, the Township's Zoning Ordinance, and state law shall be deemed to be cumulative.

16. **Amendment.** This Agreement may only be amended in writing, signed by all parties.

17. **Recording and Binding Effect.** The obligations under this Agreement are covenants that permanently run with the land, and shall bind all successors in title as to the Property (as well as any and all portions thereof), including, but not limited to, successor developer(s) and the purchasers and owners of any individual lot, parcel, or unit within the Property. It is the parties' intent that this Agreement will be recorded with the Ottawa County Register of Deeds. The Developer is responsible for all costs associated with recording the Agreement. A copy of the recorded agreement shall be submitted to the Township.

18. **Heading and Recitals.** The parties acknowledge and agree that the headings and subheadings in this Agreement are for convenience only and shall have no bearing or effect. The parties acknowledge and agree, however, that the recitals hereto are and shall be considered an integral part of this agreement proper to its correct understanding and interpretation.

19. **Miscellaneous.**

(a) **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the enforceability or validity of the remaining provisions and this Agreement shall be constructed in all respects as if any invalid or unenforceable provision were omitted.

(b) Notices. Any and all notices permitted or required to be given shall be in writing and sent either by mail or personal delivery to the address first above given.

(c) Waiver. No failure or delay on the part of any party in exercising any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

(d) Governing Law. This Agreement is being executed and delivered and is intended to be performed in the state of Michigan and shall be constructed and enforced in accordance with, and the rights of the parties shall be governed by, the laws thereof.

(e) Authorization. The parties affirm that their representatives executing this Agreement on their behalf are authorized to do so (and can fully bind their respective party) and that all resolutions or similar actions necessary to approve this Agreement have been adopted and approved. The Developer further affirms that it is not in default under the terms of any land contract for all or part of the Property.

(f) Fees. The Developer shall pay any and all applicable building permit, zoning, and other fees to the Township.

The parties have executed this Agreement on the day and year first above written.

GEORGETOWN CHARTER TOWNSHIP

By _____

Its Supervisor

And by _____

Its Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF OTTAWA)

The foregoing was acknowledged before me this ____ day of _____, 200__, by _____ and _____, the Supervisor and Clerk, respectively, of Georgetown Charter Township, a Michigan charter township, on its behalf, who are personally known to me or who have produced their driver's licenses as identification.

Notary Public, Ottawa County, Michigan
Acting in Ottawa County
My commission expires: _____

[DEVELOPER]

By _____

Its _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OTTAWA)

The foregoing was acknowledged before me this ____ day of _____, 200__, by _____, _____ of [Developer], a Michigan limited liability company, on its behalf, who is personally known to me or who has produced [his/her] driver's license as identification.

Notary Public, Ottawa County, Michigan
Acting in Ottawa County
My commission expires: _____

Drafted by and after recording return to:
Georgetown Charter Township
1515 Baldwin
Jenison, Michigan 49428

EXHIBIT A

Legal Description

EXHIBIT B

Preliminary PUD Plan

EXHIBIT C

Conditions Adopted by the Planning Commission and Township Board

11485 (001) 309815.02